



**Roll Call Number**

19-1263

**Agenda Item Number**

66

**Date** August 5, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF EXCESS CITY-OWNED PROPERTY LOCATED IN THE FOURMILE CREEK FLOODPLAIN TO POLK COUNTY CONSERVATION BOARD FOR THE FOURMILE CREEK GREENWAY PROJECT**

**WHEREAS**, on July 15, 2019, by Roll Call No. 19- 1121, the City Council of the City of Des Moines, Iowa (“City) approved the Lower Fourmile Creek Greenway Management and Maintenance Chapter 28E Agreement (“28E Agreement) between the City of Des Moines and the Polk County Conservation Board (“PCCB”); and

**WHEREAS**, the 28E Agreement provides for the transfer of certain lands from the City to Polk County to be managed by PCCB in accordance with the Lower Fourmile Creek Greenway Master Plan; and

**WHEREAS**, the City has identified a number of excess City-owned properties (“Property”) that are ready to be transferred to Polk County under the terms of said 28E Agreement; and

**WHEREAS**, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to convey the Property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, subject to the following conditions:

- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
- b) Compliance with the deed restrictions and open space requirements according to Title 44 of the Code of Federal Regulations (CFR) Part 80.19(a) for all properties acquired with funding from the U.S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA) and the U.S. Department of Housing and Urban Development’s Community Development Block Grant – Disaster Recovery program (HUD CDBG-DR).
- c) Certification to the City every three (3) years that the federally funded properties are maintained consistent with the provisions of 44 CFR Part 80.
- d) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
- e) Compliance with the Lower Fourmile Creek Greenway Master Plan.

**WHEREAS**, the City has received written approval from FEMA and HUD for the transfer of the Property to PCCB, subject to the conditions listed above.

**WHEREAS**, on July 15, 2019, by Roll Call No. 19- 1123, it was duly resolved by the City Council that the proposed conveyance be set down for hearing on August 5, 2019, at 5:00 p.m., in the City Council Chambers; and



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WHEREAS, due notice of said proposal was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in this proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of the City-owned property, real estate located in the Fourmile Creek floodplain, all located within NE Aurora Ave. on the north, E. 33rd Street and Colfax Ave on the west, E. University Ave. on the south, and E. 42nd Street on the East, Des Moines, Iowa, as described below, are hereby overruled and the hearing is closed:

Polk County District/Parcel Numbers:

06004547000000, 06004546000000, 06004573001000, 06004527000000, 06004526000000, 06003072000000, 06009470000000, 06004600000000, 06004680000000, 06003325000000, 06004387000000, 06004391000000, 06009383001005, 06004579000000, 06003375001000, 06002854001000, 06003027001000, 06004575001000, 06003323000000, 06003139001000, 06003172000000, 06004627000000, 06004539001000, 06003091000000, 06003055000000, 06004617000000, 06004605000000, 06004549000000, 06002825002000, 06002967000000, 06004607000000, 06002881000000, 06003142001000, 06002876000000, 06004384000000, 06002968000000, 06004622000000, 06002885000000, 06003290002000, 06002794000000, 06004628000000, 06000558001000, 06000573002000, 06002956001000, 06004531001000, 06000592001000, 06004554000000, 06002793000000, 06003130000000, 06004488000000, 06004285002002, 06004564000000, 06008199005000, A PORTION OF 06009393002000, 06004522001000, 06004553000000, 06003089000000, 06004683000000, 06004487000000, 06003104003000, 06003104002000, 06004480002000, 06004663000000, 06002844000000, 06004521000000, 06002936000000, 06000605000000, 06001803000000, 06004596000000, 06002890002000, 06002883000000, 06003010000000, 06003192001000, 06003013000000, 06002893006000, 06004630001000, 06004611000000, 06008250000000, 06004470000000, 06008249000000, 06000576000000, 06003250000000, 06003332001000, 06004594000000, 06002878001000, 06004592000000, 06004562000000, 06003326000000, 06008092001000, 06002765003000, 06004477000000, 06008966002000, 06002897000000, 06002919001000, 06009088004000, 06002938000000, 06003092000000, 06004494000000, 06004285008001, 06003128001000, 06001797000000, 06003203001000, 06002841001000, 06003071000000, 06003196000000, 06004588000000, 06000606000000, 06004393000000, 06002937000000, A PORTION OF 06009473002000, 06003272001000, 06008041000000, 06003226001000, 06001788000000, 06004489000000, 06000548003000, 06003320000000, 06002765002002, 06000591004000, 06004484001000, 06003381003000, 06002884000000, 06003032001000, 06004528001000, 06008199003000, 06004492003000, 06002889000000, 06002928001000, 06003154000000, 06004476000000, 06008239000000, 06004496001000, 06002986001000, 06009087001000, 06004635001000, 06004380002000, 06009383001006, 06004684002000, 06003090000000, 06000591003000, 06003187001000, 06008199004000,



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2. That the conveyance by the City of Des Moines of said real property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, is in accordance with the above 28E Agreement and Iowa Code 364.7, and subject to the following conditions, be and is hereby approved.

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- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
  - b) Compliance with the deed restrictions and open space requirements according to Title 44 of the Code of Federal Regulations (CFR) Part 80.19(a) for all properties acquired with funding from the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) and the U.S. Department of Housing and Urban Development's Community Development Block Grant – Disaster Recovery program (HUD CDBG-DR).
  - c) Certification to the City every three (3) years that the federally funded properties are maintained consistent with the provisions of 44 CFR Part 80.
  - d) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
  - e) Compliance with the Lower Fourmile Creek Greenway Master Plan.
3. The Mayor is authorized and directed to sign the Quit Claim Deed(s) for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of this Quit Claim Deed(s), together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be delivered to the Polk County Conservation Board for their acceptance.
5. Following acceptance of the Quit Claim Deed(s) by the Polk County Conservation Board, the Real Estate Division Manager is authorized and directed to forward the original of the fully executed Quit Claim Deed(s), together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed(s) and copies of the other documents to the Polk County Conservation Board.
7. There will be no proceeds associated with the conveyance of this property.

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Moved by Westergaard to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

M. Frank Cownie Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk